



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 5762-99

10 March 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 29 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Navy on 20 January 1974 at the age of 18. Your record reflects that you served for a year and three months without incident but on 28 April 1975 you were convicted by summary court-martial (SCM) of a 24 day period of unauthorized absence (UA). You were sentenced to confinement at hard labor for 18 days and a \$200 forfeiture of pay. During the period from 16 May to 22 August 1975 you received nonjudicial punishment (NJP) on three occasions for two periods of UA totalling four days and possession of marijuana. Shortly thereafter, on 3 December 1975, you were convicted by SCM of a 36 day period of UA and possession of marijuana. You were sentenced to a \$200 forfeiture of pay, reduction to paygrade E-1, confinement at hard labor for 30 days, and restriction for 30 days.

On 11 December you were notified of pending administrative separation action by reason of unfitness due to a frequent involvement of a discreditable nature with military authorities. After consulting with legal counsel you waived to right to

present your case to an administrative discharge board in exchange for a recommendation for a general discharge. On 22 December 1975 your commanding officer recommended you be issued a general discharge by reason of unfitness. On 13 October 1970 the discharge authority directed your commanding officer to issue a general discharge. On 30 December 1975 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that you would like your discharge upgraded. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your frequent misconduct which resulted in three NJP's and two court-martial convictions. Given all the circumstances of your case, the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director